

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL APPLICATION NO.4143 OF 2006

Hemant Digambar Mulay .. Applicant.

V/s.

State of Maharashtra .. Respondent.

Shri.Nitin Pradhan i/b.Ms.Shubhada Khot for the applicant.

Shri.Rajesh More, A.P.P. for the state.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18TH DECEMBER, 2006

P.C.:

1. The applicant has been arrested in connection with offences of criminal breach and cheating. He has also been accused of commission of offence under the Ownership Flats Act. The C.R.is registered by G.B.C.B., C.I.D., E.O.W., Mumbai (C.R.No.86 of 2006). The applicant is arrested on 29th June, 2006. Presently he is in judicial custody.

2. The applicant promoted a construction company and from 1999 to 2003 collected an amount of Rs.45.75 lacs. The complainants and others are teachers. The applicant assured them that they would get flat/tenement on a plot bearing No.551-A, A.B.S.Road, Dadar (West), Mumbai. However, the applicant failed to develop the plot and construct the flats. Even the amounts were not refunded to the complainants. That is how, the FIR has been lodged.

3. The learned counsel Shri.Pradhan appearing for the applicant does not dispute that the allegations in the FIR are serious. However, he states that there were several difficulties and obstacles including illness of the applicant which resulted in the plot being not developed. The applicant does not dispute his liability but on account of unavoidable circumstances could not carry out the development on the plot. The applicant was enlarged on temporary bail as Shri.Pradhan stated that the applicant would endeavour and deposit a sum of Rs.45.75 lacs collected from the complainants provided some installments are granted and time is given.

4. The investigations being completed and chargesheet

is also filed so also considering the submission of Shri.Pradhan, the applicant can be granted bail. An affidavit is filed by the applicant in which he has undertaken to pay the amounts to the complainants in the manner set out therein.

5. In the light of the fact that the investigations are completed, chargesheet is filed and the applicant residing in Mumbai permanently so also he has undertaken to refund the amount collected till date, the applicant is enlarged on bail.

6. Hence, the following order : -

ORDER :

(i) Applicant is directed to be released on bail in connection with the C.R.No.86 of 2006, registered by G.B.C.B., C.I.D., E.O.W., Mumbai on executing personal bond in the sum of Rs.25,000/- (Rs.Twenty five thousand only) with one or two local sureties in like amount.

(ii) The applicant shall not influence

prosecution witnesses or tamper with the prosecution evidence in any manner, whatsoever.

(iii) The applicant shall report to G.B.C.B., C.I.D., E.O.W., Mumbai once in a fortnight between 5.00 p.m. and 7.00 p.m. till conclusion of the trial. The applicant shall deposit the amount as undertaken in the affidavit before the court of Additional C.M.M., 19th Court, Esplanade, Mumbai. The applicant shall deposit his passport, if any, with the Investigating Machinery. The applicant shall not leave Mumbai without prior permission of the Trial Court.

(iv) The order of bail will be given effect only after the applicant furnishes to the Investigating Officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating Officer.

(v) The applicant shall co-operate for early

disposal of the trial. In the event, the trial court is of the opinion that the applicant is responsible for delay in trial, that be recorded in roznama and that can be the basis for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

(viii) Application disposed of in above terms.

(ix) Parties to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J.)